

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

July 20, 2006

In the Matter of

Paul Vandale

DEP Docket No. 2005-175
DALA Docket No. DEP -05-1225
File No. PAN-CE-5D001

Charlton

Decision on Motion for Reconsideration

I deny the motion for reconsideration because the final decision contains no clearly erroneous finding of fact or ruling of law. The petitioner states that the Department attorney did not propose a settlement offer as he had anticipated and that a medical condition diverted his attention to this matter. The Prehearing Conference Report dated January 10, 2006 established a schedule for the proceedings, including January 31, 2006 as the last day for the parties to report on settlement efforts and March 17, 2006 for the submission of prefled direct testimony. The Department timely filed its testimony. As noted in the Recommended Final Decision, the Petitioner submitted nothing after the pre-hearing conference, leading to the cancellation of the hearing that had already been rescheduled from April 20, 2006 to May 26, 2006. Correspondence in the record indicates that the Department attorney confirmed in writing that the Petitioner had received the Department's Motion to Dismiss for Failure to Prosecute on April 13, 2006, and the record includes no response, request for extension of time, or any other

filing by the Petitioner. Dismissal for failure to prosecute is warranted where a party fails to comply with a scheduling order and file documents in a timely manner. Although this result may seem harsh, particularly for pro se petitioners, such dismissals are customary as the Department is responsible to the public for the efficient administration of its adjudicatory cases. The petitioner must pay the civil administrative penalty as required by 310 CMR 5.37 (1) to (3) (How Payment Shall be Made, When Payment Shall be Made, and Consequences of Failure to Make Payment When Due; regulations are available at www.mass.gov/DEP).

Any party may appeal this Decision to the Superior Court pursuant to M.G.L. c. 30A, §14(1). The complaint must be filed in the Court within thirty days of receipt of this Decision.

*This final document copy is being provided to you electronically by the
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Robert W. Golledge, Jr.
Commissioner